

from available service records, including health records, and information provided by other government authorities or the applicant, such as, but not limited to:

- (1) Information concerning the discharge under review, including:
 - (i) Date (YYMMDD) of discharge;
 - (ii) Character of discharge;
 - (iii) Reason for discharge;
 - (iv) The specific regulatory authority under which the discharge was issued;
 - (v) Date (YYMMDD) of enlistment;
 - (vi) Period of enlistment;
 - (vii) Age at enlistment;
 - (viii) Length of service;
 - (ix) Periods of unauthorized absence;
 - (x) Conduct and efficiency ratings (numerical or narrative);
 - (xi) Highest rank achieved;
 - (xii) Awards and decorations;
 - (xiii) Educational level;
 - (xiv) Aptitude test scores;
 - (xv) Incidents of punishment pursuant to Article 15, Uniform Code of Military Justice (including nature and date (YYMMDD) of offense or punishment);
 - (xvi) Convictions by court-martial;
 - (xvii) Prior military service and type of discharge received.
- (2) Any other matters in the applicant's record which pertains to the discharge or the issues, or provide a clearer picture of the overall quality of the applicant's service.
- (b) A list of the type of documents submitted by or on behalf of the applicant (including written briefs, letters of recommendation, affidavits concerning the circumstances of the discharge, or other documentary evidence), if any.
- (c) A statement whether the applicant testified, and a list of the type of witnesses, if any, who testified on behalf of the applicant.
- (d) A notation whether the application pertained to the character of discharge, the reason for discharge, or both.
- (e) A list of the items submitted as issues on DD Form 293 or expressly incorporated therein and such other items submitted as issues by the applicant that are identified as inadvertently omitted. If the issues are listed verbatim on DD Form 293, a copy of the relevant portion of the form may be attached. Issues that have been with-

drawn or modified with the written consent of the applicant need not be listed.

(f) The response to the items submitted as issues by the applicant.

(g) A list of decisional issues and a discussion of such issues.

(h) NDRB's conclusions on the following:

(1) Whether the character of or reason for discharge should be changed.

(2) The specific changes to be made, if any.

(i) A record of the voting, including:

(1) The number of votes for the NDRB's decision and the number of votes in the minority, if any.

(2) The NDRB members' names and votes. The copy provided to the applicant may substitute a statement that the names and votes will be made available to the applicant at the applicant's request.

(j) Advisory opinions, including those containing factual information, when such opinions have been relied upon for final decision or have been accepted as a basis for rejecting any of the applicant's issues. Such advisory opinions or relevant portions that are not fully set forth in the discussion of decisional issues or otherwise in response to items submitted as issues by the applicant shall be incorporated by reference. A copy of opinions incorporated by reference shall be appended to the decision and included in the record of proceedings.

(k) The recommendation of the NDRB president when required.

(l) The addendum of the SRA when required.

(m) Index entries for each decisional issue under appropriate categories listed in the index of decisions.

(n) An authentication of the document by an appropriate official.

§ 724.804 Decision process.

(a) The NDRB or the NDRB panel, as appropriate, shall meet in plenary session to review discharges and exercise its discretion on a case-by-case basis in applying the standard set forth in subpart I.

(b) The presiding officer is responsible for the conduct of the discharge review. The presiding officer shall convene, recess, and adjourn the NDRB

panel as appropriate and shall maintain an atmosphere of dignity and decorum at all times.

(c) Each NDRB member shall act under oath or affirmation requiring careful, objective consideration of the application. NDRB members are responsible for eliciting all facts necessary for a full and fair review. They shall consider all information presented to them by the applicant. In addition, they shall consider available military service and health records, together with other records that may be in the files of the military department concerned and relevant to the issues before the NDRB, and any other evidence obtained in accordance with this Manual.

(d) The NDRB shall identify and address issues after a review of the following material obtained and presented in accordance with this Manual and any implementing instructions of the NDRB: available official records, documentary evidence submitted by or on behalf of an applicant, presentation of a hearing examination, testimony by or on behalf of an applicant, oral or written arguments presented by or on behalf of an applicant, and any other relevant evidence.

(e) If an applicant who has requested a hearing does not respond to a notification letter or does not appear for a scheduled hearing, the NDRB may complete the review on the basis of material previously submitted and available service records.

(f) *Application of standards.* (1) When the NDRB determines that an applicant's discharge was improper, the NDRB will determine which reason for discharge should have been assigned based upon the facts and circumstances before the discharge authority, including the service regulations governing reasons for discharge at the time the applicant was discharged. Unless it is also determined that the discharge was inequitable, the provisions as to the characterization in the regulation under which the applicant should have been discharged will be considered in determining whether further relief is warranted.

(2) When the NDRB determines that an applicant's discharge was inequitable, any change will be based on the

evaluation of the applicant's overall record of service and relevant regulations of the service of which the applicant was a member.

(g) Voting shall be conducted in closed session, a majority of the votes of the five members constituting the NDRB decision.

(h) Details of closed session deliberations of the NDRB are privileged information and shall not be divulged.

(i) There is no requirement for a statement of minority views in the event of a split vote.

(j) The NDRB may request advisory opinions from appropriate staff officers of the naval service. These opinions are advisory in nature and are not binding on the NDRB in its decision-making process.

(k) The preliminary determinations required by 38 U.S.C. 3103(e) shall be made upon majority vote of the NDRB concerned on an expedited basis. Such determination shall be based upon the standards set forth in this Manual.

§ 724.805 Response to items submitted as issues by the applicant.

(a) *General guidance.* (1) If any issue submitted by an applicant contains two or more clearly separate issues, the NDRB should respond to each issue under the guidance of this paragraph as if it had been set forth separately by the applicant.

(2) If an applicant uses a "building block" approach (that is, setting forth a series of conclusions on issues that lead to a single conclusion purportedly warranting a change in the applicant's discharge), normally there should be a separate response to each issue.

(3) Nothing in this paragraph precludes the NDRB from making a single response to multiple issues when such action would enhance the clarity of the decisional document, but such response must reflect an adequate response to each separate issue.

(b) *Decisional issues.* An item submitted as an issue by an applicant in accordance with this Manual shall be addressed as a decisional issue in the following circumstances:

(1) When the NDRB decides that a change in discharge should be granted, and the NDRB bases its decision in